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Committee on Economic, Social and Cultural Rights

Fifty-second session

Summary record (partial)* of the 26th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 14 May 2014, at 3 p.m.

Chairperson: Mr. Ribeiro Leão (Vice-Chairperson)

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Third to fifth periodic reports of El Salvador (continued) (E/C.12/SLV/3-5; E/C.12/SLV/Q/3-5 and Add.1; HRI/CORE/SLV/2011)

1. *At the invitation of the Chairperson, the delegation of El Salvador took places at the Committee table.*

2. **Ms. Velásquez de Avilés** (El Salvador), replying to questions asked at the previous meeting, said that the Office of the Human Rights Advocate and the Constitutional Chamber of the Supreme Court heard cases of human rights violations, mostly in health, education and labour matters. However, the Advocate's decisions were not binding and constituted more of a moral sanction than a tangible penalty. The right to strike was recognized under both the Constitution and the Labour Code, but was a last resort when conciliation and arbitration failed. Moreover, strikes had to be authorized by the authorities, which frequently declared them illegal. The Equal Opportunities for Persons with Disabilities Act stipulated that 1 in every 25 employees had to be a worker with a disability. Although the law did provide for fines in case of non-compliance, they were low and not dissuasive enough. Ongoing efforts were being made to foster a culture of acceptance of persons with disabilities and there were plans to increase the fines.

3. **Ms. Medina** (El Salvador) said that the main results of the new law on violence against women had been to raise awareness of the issue, bring it out of the private sphere and encourage women to report abuse. Furthermore, the law provided for comprehensive assistance to victims, including legal aid and health care, and established indicators on which to base policies and programmes with a view to cultivating a culture of non-violence.

4. **Ms. Velásquez de Avilés** (El Salvador) said that, thanks to the new law, more women were coming forward and cases were being prosecuted. The law was relatively recent, which made its impact difficult to measure, but the hope was that it would eventually have a deterrent effect. She wished to highlight the invaluable contribution of NGOs to the lobby for laws on the protection of women and children.

5. **Mr. Mancisidor** (Country Rapporteur) requested additional information on the reform of the taxation system and its impact on income redistribution and social spending as well as confirmation that the provisions of the Covenant could in fact be directly invoked before the courts. Pointing out that the previously mentioned data on prosecutions for corruption had been provided by the State party itself in its replies to the list of issues, he asked whether there had really been only two cases. He remained uneasy regarding the right to strike because the delegation's replies seemed to indicate that the enjoyment of that right was theoretical rather than effective. What percentage of strikes were declared unlawful and on what grounds?

6. **Ms. Bras Gomes**, referring to paragraphs 113 and 114 of the combined report, asked whether the Government had accepted and acted on the recommendations of the National Minimum Wage Council. She wished to know whether the overhead costs of the large number of social programmes and measures in place, which likely overlapped, had been evaluated with a view to finding savings that could be ploughed back in for the population's benefit. She asked whether the Government had assessed the impact on women's pensions of having different mandatory retirement ages for men and women. Lastly, she asked whether the Rural Community Solidarity Programme had originally been

countrywide and had later been restricted to its current scope and, if so, what had prompted the change.

7. **Mr. Tirado Mejía**, stressing the gravity of the health situation, in particular the large number of deaths in childbirth and from unsafe abortions and the high teenage pregnancy rate, asked to what extent the State party had implemented the relevant recommendations contained in the Committee's previous concluding observations (E/C.12/SLV/CO/2). He regretted the apparent regression of Government policy regarding sexual and reproductive health and the fact that life was still considered to begin at conception. Accordingly, he asked whether the Government was making any efforts to change its policy, in step with several other countries in the region, and to comply with the recommendations of the Committee and other entities in that regard.

8. **Ms. Ravenberg** asked what measures the Government was taking to build a national health-care system based on the principles of equality and accessibility that guaranteed essential health services for the entire population, especially vulnerable groups such as indigenous peoples, street children and detainees. Had the Government considered increasing health expenditures? She wished to know how much information was provided to the population regarding sexual and reproductive health rights and services and to what extent women, particularly minors and other vulnerable groups, had access to contraception.

9. In the light of the absolute prohibition of abortion, she asked whether the Government had considered the ban's consequences on the health-care and prison systems; whether pregnant women had access to prenatal care; what steps were being taken to prevent women who sought emergency obstetric care from being turned in, prosecuted and incarcerated for suspected abortion; what impact the ban had had on suicides among pregnant women; how health-care professionals reacted when a pregnancy threatened the mother's life; how abandoned or vulnerable women were protected; and whether comprehensive sex education was provided in all schools.

10. **Ms. Shin**, emphasizing the gravity of the abortion ban and its dire consequences for women's health, life and freedom, urged the State party to do everything in its power to change the policy. She asked what the Government's response had been to the pardon request in respect of 15 women currently imprisoned on abortion charges. Given the high number of female-headed households, she asked what Government measures were in place to assist them and whether men were being educated about their family responsibilities.

11. **Mr. Pillay** asked what measures were being taken to address the housing deficit in both urban and rural areas, including the provision of social housing for low-income and marginalized individuals. Referring to reports of forced evictions without prior notification, due process or the provision of alternative accommodation, he asked how many forced evictions had been carried out pursuant to the 2009 Special Law guaranteeing the ownership or lawful possession of property; whether the Government intended to adopt legislation that adhered to relevant international standards and the Committee's general comment No. 7 on the right to adequate housing; and whether homelessness was a problem in the State party.

12. **Mr. Atangana** requested more precise information about the obstacles to birth registration in isolated, rural areas and about the steps taken to address them.

13. **The Chairperson**, speaking as a member of the Committee, asked, with reference to the distinction made between extreme poverty and relative poverty in the State party's report, whether the five-year plan for 2009–2014 addressed both forms of poverty equally. Assuming that a second five-year plan would shortly be adopted, would the new plan differ from its predecessor and, if so, how?

14. **Mr. Mancisidor** said that it should not have been necessary for the Inter-American Court of Human Rights to intervene in the case of Beatriz in order to protect her right to life, health and dignity. The State party should have domestic remedies and mechanisms in place that allowed for complex cases such as Beatriz's to be resolved effectively without the need for supranational intervention. Urgent action was required to tackle the alarming level of chronic malnutrition among children under 5. A report published by the Office of the Human Rights Advocate in April 2014 had estimated that level at around 20 per cent. The delegation was also urged to provide the disaggregated data about street children requested in the list of issues (E/C.12/SLV/Q/3-5). Without such data it was impossible to appraise the situation and recommend appropriate measures.

15. **Ms. Bras Gomes** said that the absolute ban on abortion was a form of discrimination against women that affected poor, uneducated and otherwise vulnerable women most of all. In addition to violating the right to health, the ban constituted a failure on the part of the State to provide for those most in need. She invited the delegation to comment on that assessment. Noting that national legislation apparently made no provision for maternity, paternity or family leave but that, pursuant to the International Labour Organization (ILO) Workers with Family Responsibilities Convention, 1981 (No. 156), parents should have the option to take time off when needed, she asked what forms of leave would be available to a parent caring for a sick child or child with a disability.

16. **Mr. Martynov** asked why the State party had not ratified the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) despite being urged to step up its efforts to combat child labour in the Committee's previous concluding observations and the recognized scale of the problem. He would like to know the Government's plans in respect of those conventions.

17. **Mr. Sadi** asked whether the State party's exceptionally restrictive abortion policy was guided by religious or cultural considerations and urged the delegation to explain the specific deep-rooted reasons behind it. Reiterating Ms. Bras Gomes' concerns about the policy's disproportionate impact on the most vulnerable population groups, he asked whether it was usual practice for women to travel to more liberal neighbouring countries to seek terminations if they could afford to do so, and whether in such cases they might be liable to criminal charges upon their return.

18. **Ms. Ravenberg** asked what the State party was doing to address the persistently high school dropout rate among girls in rural areas, to improve the quality of education in those areas, and to ensure that all children living in rural areas and/or in indigenous communities enjoyed the same educational opportunities as city dwellers. She also sought information about the State budget for education, about measures adopted to make quality education accessible to children with disabilities, and about Government efforts to make instruction for indigenous children available in their own language. Lastly, she enquired whether indigenous and street children were subject to compulsory education.

19. **Mr. Marchán Romero** said that, although the State party had made a major advance in recognizing the existence of indigenous peoples and had demonstrated a clear political will to redress historical wrongs, the legislative reforms did not go far enough as they were not accompanied by a recognition of indigenous peoples' right to inhabit their ancestral lands, exploit their communal resources and maintain their traditions. In addition, current legislation did not provide for the restitution of indigenous land that had been appropriated for other uses without the prior, informed consent of the affected communities. He urged the State party to formulate appropriate policies that took account of the Committee's general comment No. 21, the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples.

20. As a first step in that direction, he highlighted the need for an accurate census of the indigenous peoples that properly reflected their right to self-identification. Noting that the manner in which the question on ethnic identity had been formulated in the 2007 census had been highly inappropriate, he asked whether the issues associated with self-identification had been resolved in the 2012 census and, if so, how. Lastly, he enquired whether the intellectual property rights of indigenous communities were duly respected and protected, in accordance with article 15, paragraph 1 (c), of the Covenant.

21. **Mr. Mancisidor** expressed concern about the violations of the right to health and the right to enjoy the benefits of scientific progress linked to the chronic kidney disease that had reportedly caused over 20,000 deaths in Central America, including over 5,000 in El Salvador. The disease had been associated with working conditions in sugar cane plantations and exposure to toxic chemical agents. However, the precise causes had not been identified and in the meantime, according to the World Bank and the sugar cane industry, appropriate remedial action was not possible. He therefore called on the State party to assign State funds to the ongoing investigation in order to ensure the independence of the research and expedite a resolution.

The meeting was suspended at 4.10 p.m. and resumed at 4.40 p.m.

22. **Ms. Velásquez de Avilés** (El Salvador), acknowledging the problems that had impeded birth registration in the past, particularly during and after the civil war, said that, pursuant to an agreement between the Ministry of Health and local authorities, in every hospital in the country there would in future be a designated official responsible for registering every newborn and thus ensuring that no child was denied the right to an identity. Mechanisms enabling persons who lacked birth registration documents to resolve their situation had also been introduced pursuant to a Ministry of Health decree.

23. Government policy was designed to address and eradicate both extreme and relative poverty. Disaggregated data for street children were not available but figures provided by the Salvadoran Institute for Child and Adolescent Development indicated that there were currently about 260 children living and/or working in the street. She could assure the Committee that, subject to the limitations imposed by its scant resources, the Government was making great efforts to protect, provide and care for women, particularly the most disadvantaged women, and that the case of Beatriz was in no way indicative of a generalized State failing in their regard.

24. Under the law governing public holidays and leave entitlements for public-sector employees, men and women were entitled to 20 days' family leave per year to care for sick children and 3 days' leave following the birth of a child.

25. El Salvador had been a pioneer in drawing up a regional road map to determine the scale of the child labour problem and had in fact ratified the two ILO conventions mentioned by Mr. Martynov. The Government was working closely with the ILO to develop strategies to ensure decent work for adults that gave parents sufficient income to provide for their children and keep them in school. Strategies to combat child labour directly were also being developed. Children above the age of 16 who were already working were accorded special attention under those schemes.

26. Abortion was an issue that generated huge passion, analysis and discussion in El Salvador, which was a very traditional and conservative country. Abortion had been permitted on ethical, therapeutic and eugenic grounds until 1999, when the current repressive law had taken effect. Workers' associations, women's organizations and civil society had since lobbied tirelessly for legal reform, highlighting the increased number of clandestine abortions and related deaths. The current situation, in which women who sought abortions could face prison sentences of between 4 and 8 years, was a difficult one, with

far-reaching implications for women's health, for health-care expenditure and for doctors, who faced disciplinary proceedings if they breached the law.

27. Reliable statistics for suicide rates were not available and it was not possible to link the increase highlighted in the report of the Office of the Human Rights Advocate definitively to any one cause. Where young girls had been the victims, it had not been established that pregnancy was the reason. More in-depth research was needed.

28. With civil society support, the Minister of Education was currently spearheading a campaign to raise awareness of sexual and reproductive rights. Applications to pardon the 15 women who were facing conviction for abortion had been filed with the Legislative Assembly and were pending a decision.

29. With regard to the housing shortage in rural and urban areas and especially among marginalized groups, a new law on land subdivision had been passed in 2012 that was designed to help households with very limited resources. Research conducted some time previously had shown that over half of all marriages in El Salvador were common-law marriages and that around 60 per cent of households were headed by women. The latter finding was in part a reflection of the large number of men working outside the country while their partners remained at home, and that situation was a key consideration in many of the social measures introduced by the current Government, which included allowances for school materials, shoes and the care of older persons.

30. **Ms. Velásquez Centeno** (El Salvador) said that Salvadoran law had regressed in respect of abortion: where previously it had provided for exceptional circumstances that might justify abortion, now no such exceptions were made. When a woman needed medical help and doctors suspected that her condition might have been caused by an abortion, the doctors were obliged to report her. If they failed to do so they themselves were liable to punishment. Between 2011 and 2013, however, there had been only eight convictions for abortion, a figure that bore little relation to the number of women prosecuted. The majority were released before the end of the trial for lack of evidence, or the case was dismissed. The *Beatriz* case had provided an opportunity to apply the law differently but the Constitutional Court, by a majority of 5 to 3, had dismissed the woman's application for *amparo* on the grounds that there was no violation of either her or the baby's right to health or life. The Court had stated that it was up to doctors to make an assessment of the woman's medical condition and provide treatment as appropriate to guarantee the right to life and health. As to women who went abroad for an abortion, there was no jurisdiction under the Criminal Code over crimes committed abroad.

31. Strikes were declared illegal when the formalities under the Labour Code were not fully complied with. In fact that did not happen often, as employers rarely went to court to obtain a ruling on the legality of a strike but preferred to negotiate with workers who had withdrawn their labour. In that way workers' demands were often met, and labour as a whole benefited.

32. **Ms. Lemus de Vásquez** (El Salvador) said that an intercensal survey of the indigenous peoples had been planned for 2012. The national institutions and indigenous peoples' NGOs had been widely consulted to ensure agreement on the question to be asked and the procedure itself, but in the end it had not been possible to carry out the survey for lack of resources. Such exercises were very expensive, and it had not been possible to obtain help from international organizations.

33. The health reform had brought about major changes in coverage for vulnerable populations and the poor. The health network had conducted a recruitment drive, taking on more medical specialists, and health teams now reached 2 million more people than before. Local health coverage had increased, notably in traditionally marginalized rural areas. The three levels of health service had been integrated and referrals could now be made to the

entire network. More than 100 family health centres had been refurbished and a new women's hospital had been built, providing maternity care and other specialist treatment for women.

34. **Ms. Velásquez Centeno** (El Salvador) said that tax reform had contributed to a major increase in social policy development. Nearly 50 per cent of public expenditure in 2013 had gone toward social affairs, notably education and social projects for local development. Plans and programmes had been set in motion on agriculture, taxation, infrastructure, combating vulnerability and the hospital and health network. One important project was Pro-Educa, which aimed to help local governments to strengthen social cohesion.

35. **Ms. Lemus de Vásquez** (El Salvador) said that the tax reforms carried out between 2009 and 2011 had yielded nearly US$ 300 million, which represented 1.3 per cent of gross domestic product.

36. **Ms. Velásquez de Avilés** (El Salvador) said that the Ministry of Health had been working to establish the causes of chronic kidney disease. Pesticides could be a factor. They were produced outside El Salvador and enquiries were being made to find out what companies manufactured them and where they operated. Other Central American countries were affected too.

37. As to the problem of indigenous girls dropping out of school, special educational programmes were being organized to help keep them in school. Indeed, a reform of the entire education system had started in 2009 with the aim of making education more motivational so that children would enjoy school. That problem was naturally related to the child labour problem.

38. One example of efforts to preserve indigenous languages was a major campaign to encourage the use of Nahuat-Pipil in schools.

39. It was such situations that El Salvador was trying to solve. For her Government the human being was the focus of attention. El Salvador was a very densely populated country, with 450 inhabitants per square kilometre, and badly affected by natural phenomena. Those were factors in the country's shortcomings with regard to human rights. Nevertheless the political will was there, and a recognition that much remained to be done.

40. **Mr. Sadi** asked what forces had been at work to cause the backtracking on the State party's previous abortion policy. The fact that there were so few convictions for abortion seemed inconsistent with the strictness of the law and sent conflicting signals concerning the State party's commitment to the legislation. He wondered how open the State party would be to the Committee's recommendations in that regard.

41. He asked what control there was over the use of pesticides in the State party. How was it possible for any country to use them so liberally?

42. **Ms. Bras Gomes**, recalling that the delegation had described El Salvador as a traditional or conservative society, asked what that perception was based on. Did the delegation know what society's views currently were on abortion? She recalled that, in 2010, the Human Rights Committee had called on the State party to open a national dialogue on women's right to sexual and reproductive health. Had El Salvador carried out such a debate? Would it be possible to predict the outcome of such a debate were it to be held today?

43. **Mr. Mancisidor** said that he commended the delegation for its positive approach to economic, social and cultural rights. There were nevertheless questions pending that had not received sufficient attention. He was still not clear, for example, about the specific outcomes of the tax reform: what new taxes had been introduced and who benefited? No

real detail had been given regarding the indigenous land issue: there was no indication, for example, whether the State party was considering creating a specific category of indigenous landownership. As to indigenous languages, he welcomed the educational developments in that regard but he would like to see statistics showing whether there were enough teachers prepared and trained to undertake the tasks involved and what percentage of indigenous people had access to true bilingual education.

44. On education more generally, he said there appeared to be scant training for primary school teachers in rural areas, a situation that seemed inconsistent with the overall improvements in education. Lastly, he would have welcomed some comment from the delegation on the child malnutrition figures he had provided, which had come from government information dated as recently as April 2014. The delegation's reference to strong political will did not seem to be reflected by the facts. He would appreciate more information and detail on those points.

45. **Ms. Velásquez de Avilés** (El Salvador) said that the delegation would submit replies to the last series of questions in writing. She thanked the Committee members for their numerous and detailed questions, which all helped El Salvador to advance towards better implementation of economic, social and cultural rights.

46. **The Chairperson** said that he had appreciated the frank and open discussion with the delegation, and the State party's readiness to do what was needed to implement economic, social and cultural rights.

47. **Mr. Mancisidor** thanked the delegation for its openness and its commitment to human rights. Notwithstanding the very serious problems that still remained, he was aware of the improvements that had been made, notably in tackling poverty, in the past four or five years.

The discussion covered in the summary record ended at 5.30 p.m.